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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 BILLY WAYNE BLAIR, JR.,)

13 Plaintiff,)

14 v.)

15 CALIFORNIA DEPARTMENT OF)
CORRECTIONS, et al.,)

16 Defendants.)
17 _____)

No. C 07-5385 MMC (PR)

ORDER OF TRANSFER

(Docket No. 2)

18
19 On October 22, 2007, plaintiff, a California prisoner proceeding pro se, filed the
20 above-titled civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff alleges that his
21 incarceration at Corcoran State Prison is unlawful, and is the result of actions taken by prison
22 officials at Corcoran State Prison and the California Department of Corrections and
23 Rehabilitation.

24 Venue may be raised by the court sua sponte where the defendant has not filed a
25 responsive pleading and the time for doing so has not run. See Costlow v. Weeks, 790 F.2d
26 1486, 1488 (9th Cir. 1986). When jurisdiction is not founded solely on diversity, venue is
27 proper in (1) the district in which any defendant resides, if all of the defendants reside in the
28 same state; (2) the district in which a substantial part of the events or omissions giving rise to

1 the claim occurred, or a substantial part of the property that is the subject of the action is
2 situated; or (3) a judicial district in which any defendant may be found, if there is no district
3 in which the action may otherwise be brought. See 28 U.S.C. § 1391(b). When venue is
4 improper, the district court has the discretion to either dismiss the case or transfer it “in the
5 interest of justice.” See 28 U.S.C. § 1406(a).


6 It is clear from the complaint that plaintiff’s claims arise out of actions alleged to have
7 been committed at Corcoran State Prison and the California Department of Corrections and
8 Rehabilitation. Corcoran State Prison is in Kings County, California, and lies within the
9 venue of the Eastern District of California. See 28 U.S.C. § 84(b). The California
10 Department of Corrections and Rehabilitation is in Sacramento County, California, and also
11 lies within the venue of the Eastern District of California. See id. As a result, venue is
12 proper in the Eastern District of California, not in the Northern District.

13 Accordingly, in the interest of justice, the above-titled action is hereby
14 TRANSFERRED to the United States District Court for the Eastern District of California. In
15 light of the transfer, this Court will defer to the Eastern District with respect to plaintiff’s
16 application to proceed in forma pauperis.

17 The Clerk shall close the file and terminate Docket No. 2 on this Court’s docket.

18 IT IS SO ORDERED.

19 DATED: October 31, 2007

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21 MAKINE M. CHESNEY
22 United States District Judge
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